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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/640,103	08/15/2000	Patrick McErlean	FKC-100US	1503

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RATNERPRESTIA
P O BOX 980
VALLEY FORGE, PA 19482-0980

EXAMINER	
BOUTAH, ALINA A	

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/640,103	MCERLEAN, PATRICK	
	Examiner	Art Unit	
	Alina N Boutah	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This action is in response to Applicant's amendment filed August 10, 2006. Claims 1-16 are pending in the present application.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8 and 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A classification module is non-statutory, since it is not **tangibly embodied** in a manner so as to be executable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,424,997 issued to Bushkirk, Jr. et al. (hereinafter referred to as Bushkirk) in view of USPN 5,903,853 issued to Saraki.

Regarding claim 1, Bushkirk teaches an electronic message processing system arranged to receive electronic messages, the system comprising:

means for storing a plurality of classification rules (figure 2: 125);

at least one text analyzer (figure 1: classifier and action selector);

a respective rule engine associated with the at least one text analyzer and with rule storage means, the at least one text analyzer and associated rule engine being co-operable to apply at least one classification rule to the content of a received electronic message and to generate at least one result based on the application of said at least one classification rule (figures 1 and 2; abstract; col. 4, lines 6-36);

a classification module co-operable with the at least one text analyzer and associated rule engine and arranged to classify the electronic message into at least one message category based on said at least one result, wherein the classification rules are arranged into a plurality of rule sets, the classification module being arranged cause the at least one text analyzer in association with the associated rule engine to apply at least one of said rule sets of the plurality of rule sets to the message content, wherein the at least one result generated by application of the at least one rule set from said plurality of rule sets to the message content determines at least one other rule set from said plurality of rule sets next to be applied to said message content (figures 1 and 2; abstract; col. 1, lines 52-62; col. 2, lines 39-58; col. 3, lines 16-25).

However, Bushkirk fails to explicitly teach applying the one or more rule sets to the message content in accordance with a hierarchical structure. Saraki teaches applying rules to message content in accordance with a hierarchical structure (figures 1A, 1B, 4, abstract; col. 6, line 63 to col. 7, line 10). At the time the invention was made, one of ordinary skill in the art

would have been motivated to apply rules to message content in accordance with a hierarchical structure because a hierarchical structure enables the possibility of rapidly applying the rule set to the message content because of its different level structure, therefore minimizing the classification time.

Regarding claim 2, Bushkirk teaches an electronic message processing system as claimed in claim 1, wherein the at least one text analyzer and associated rule engine are arranged to generate a respective result set for the at least one rule set applied to the message content, the classification module being arranged to determine respectively from the at least one result set whether to classify the message category or cause a further rule set to be applied to the message content (col. 1, lines 52-62; col. 2, lines 39-58; col. 3, lines 16-25).

Regarding claim 3, Bushkirk teaches an electronic message processing system as claimed in claim 1, wherein the text analyzer includes the rule engine (figures 1 and 2).

Regarding claim 4, Bushkirk teaches an electronic message processing system as claimed in claim 3, wherein the classification module is arranged instantiate a respective instance of the text analyzer for each rule set, each text analyzer instance being arranged apply respective set the message content (col. 1, lines 52-62; col. 2, lines 39-58; col. 3, lines 16-25).

Regarding claim 5, Bushkirk teaches an electronic message processing system as claimed claim 4, wherein each text analyzer instance associated with a respective lexical analysis tool (abstract).

Regarding claim 6, Bushkirk teaches an electronic message processing system as claimed claim 1 wherein each lexical analysis tool includes a dictionary (figure 2: 105).

Regarding claim 7, Bushkirk teaches an electronic message processing system as claimed claim 1 wherein the rule storage means comprises a plurality of rule files, each rule file containing a respective rule set (figure 2: 125).

Claims 8 and 9 are similar to claim 1, therefore are rejected under the same rationale.

Regarding claim 10, Bushkirk teaches a method of classifying an electronic message as claimed in claim 9 further including: instantiating for each rule set (figure 1); and arranging each text analyzer instance to apply its respective rule set to the message content (figures 1 and 2).

Regarding claim 11, Bushkirk teaches an electronic message processing system as claimed in claim 1, wherein the electronic messages to be processed include unstructured text-based messages (abstract).

Regarding claim 12, this is an electronic mail (e-mail) processing system comprising an electronic message processing system as claimed in claim 1, therefore is rejected under the same rationale.

Regarding claim 13, this is an SMS message processing system comprising an electronic message processing system as claimed in claim 1, therefore is rejected under the same rationale.

Claims 14-16 are similar to claim 1, therefore are also rejected under the same rationale.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N. Boutah whose telephone number is 571-272-3908. The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ANB

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JEFFREY PWU
PRIMARY EXAMINER